

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5129 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE N.N.MATHUR

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

BHUPATBHAI RAMANANDI

Appearance:

MR KS JHAVERI for Petitioner
MR RC KAKKAD for Respondent No. 1
SERVED for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE N.N.MATHUR

Date of decision: 25/09/96

ORAL JUDGEMENT(per. Patel,J.)

Admit.

Mr R C Kakkad, Learned Advocate waives service on behalf of respondents. At the request of the learned Advocates,

we have taken up the matter for final hearing today.

2. The contention raised by Mr K S Zaveri, learned Advocate for the appellant is that though prayer was not made in the petition, the Tribunal awarded interest @ 9% per annum from the date of petition till realisation, if the awarded amount is deposited with the Tribunal on or before 31.12.1994. He however, submitted that the tribunal is justified in passing the first part of the order whereby it is directed that the amount as per the award shall be deposited with the tribunal on or before 31.12.1994.

3. Mr K S Zaveri, learned Advocate submitted that further the tribunal has committed error in passing the order to the effect that if the amount is not deposited within the stipulated time, i.e. on or before 31.12.1994, the appellant will have to pay the awarded amount with interest @ 15% from the date of the petition.. He submitted that the tribunal would have been justified in awarding the amount of interest as prayed for in the memo of the petition. Mr Kakkad, learned Advocate for the opponents was not able to point out as to how 15% interest could be awarded. He only submitted that since default is committed by the appellant and as the Tribunal has passed the order with a default clause, in view of the default, the amount should be paid with interest @ 15%. It appears to us that in the facts and circumstances of this case, it would be just and proper to direct the present appellant to pay 15% interest per annum w.e.f. 1.1.1995 i.e. the last date granted by the tribunal for depositing the amount, if In spite of time being granted, the appellant fails to deposit the amount with interest from the date of petition. Under the circumstance, we modify the order of the tribunal and direct that if the appellant fails to deposit the award amount within the stipulated period, the rate of interest will be 15% per annum from 1.1.1995 till realisation on the awarded amount and cost thereon. The appeal is allowed accordingly with no order as to costs. The award stands modified accordingly.

Mr K S Zaveri, learned Advocate submitted that the entire amount has been deposited, and the appellant would be entitled to get refund of the excess amount deposited by it. It is for the tribunal to consider the application which will be made by the appellant in this behalf.

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